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## THIRD DIVISION

[ G.R. No. 179226, June 29, 2015 ]

**MA. SUSANA A. AWATIN, AND ON BEHALF OF THE HEIRS/BENEFICIARIES OF DECEASED ALBERTO AWATIN, PETITIONER, VS. AVANTGARDE SHIPPING CORPORATION AND MRS. DORA G. PASCUAL, OFFSHORE MARITIME MANAGEMENT INT'L., INC. (SWITZERLAND), SEABLUK TRESURE ISLAND, RESPONDENT.**

### DECISION

**PERALTA, J.:**

For this Court's resolution is the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court of petitioners Ma. Susana A. Awatin, and on behalf of the heirs/beneficiaries of deceased Alberto Awatin that seeks to reverse and set aside the Decision<sup>[1]</sup> and Resolution of the Court of Appeals, dated March 21, 2007 and August 3, 2007, respectively.

The facts follow.

Alberto B. Awatin (Awatin) was recruited and hired as Master for the vessel M/V Seabulk Treasure Island by private respondent Avantgarde Shipping Corporation (Avantgarde), for its principal, Offshore Marine Management International, Inc. (Switzerland) on January 16, 2001. The Contract of Employment provided, among others, for a term of six (6) months, a monthly basic salary of US\$1,750.00, fixed overtime pay of US\$700.00 per month and vacation leave pay of US\$350.00. Awatin joined the vessel M/V Seabulk Treasure Island on January 21, 2001 after submitting the required pre-employment medical examination where he was declared "fit to work" by the company designated physician.

Before his employment with M/V Seabulk Treasure Island, Awatin claimed to have been continuously and exclusively employed by Avantgarde under successive contractual service as "Master" for various cargo vessels since May 28, 1997.

Awatin was repatriated back to the Philippines on July 29, 2001 after completing his employment contract. Awatin's wife, Susana Awatin (petitioner), claimed that her husband underwent medical check-up at the Camiguin General Hospital in Mambajao, Camiguin, due to difficulty in breathing, coupled with hard and painful cough. He was treated by Dr. Joseph Chrysler Beja and diagnosed to have "Massive Ascitis, Secondary to Adenocarcinoma, Moderate Pleural Effusion, Right Lung" and "repeated abdominal paracentesis due to recurrent ascitis."

On September 10, 2001, Awatin reported back to Avantgarde's office for redeployment and was subjected to the mandatory pre-employment medical examination where he was declared "unfit to work" due to a finding of "Minimal PTB right upper lung." He was then confined at the St. Dominic Medical Center, Bacoor, Cavite from November 7 to 9, 2001 because of difficulty in breathing; and at the Doctor's Sabal Hospital, Inc. from June 8 to 27, 2002 in Cagayan de Oro City because of "Adenocarcinoma primary etiology unknown with massive Ascitis;" and at the Camiguin General Hospital from July 2 to 4, 2002 for the same illness. Eventually, Awatin died of "multi-organ failure and adenocarcinoma" on July 12, 2002.

Thereafter, on October 9, 2002, petitioner, for herself and on behalf of her two (2) minor children (collectively called petitioners), filed a complaint for recovery of death benefits, burial allowance, sickness allowance, additional benefits for her two (2) minor children, reimbursement of medical and hospitalization expenses, moral and exemplary damages and attorney's fees against private respondents Avantgarde, its officer, Ms. Dora Pascual, Offshore Marine Management Int'l., Inc. (Switzerland) and Seabulk Treasure Island (collectively called private respondents) before the National Labor Relations Commission (NLRC), docketed as NLRC OFW Case No. (M) 02-10-2605-00.

According to private respondents, petitioners' claim for death benefits was not granted because the late Awatin was no longer in their employ at the time of his death and that his death arose from an illness which was not work-related. Petitioners' claim for sickness allowance and reimbursement of medical expenses were also denied because according to the same private respondents, the deceased Awatin was not repatriated by reason of illness and for medical treatment.

However, petitioners insist that the late Awatin was repatriated due to illness that resulted to his death and that under the POEA Standard Employment Contract, it is sufficient that the illness occurs during the term of the contract to make a seafarer's death compensable.

The Labor Arbiter, on May 30, 2003 rendered a Decision<sup>[2]</sup> in favor of petitioners upon a finding that the late Awatin's illness was contracted during his employment with the private respondents. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered, ordering the respondents Avantgarde Shipping Corporation/Dora G. Pascual/Offshore Marine Management International, Inc./Switzerland/Seabulk Treasure Island to pay complainants the amount of NINETY THOUSAND TWO HUNDRED US DOLLARS (US\$90,200.00) or its equivalent in Philippine Peso at the prevailing rate of exchange at the time of the actual payment representing the death benefit, burial expenses, sickness wages of the deceased Master Alberto B. Awatin and attorney's fees.

The respondents are further ordered to pay complainant the amount of THREE HUNDRED FORTY-SEVEN THOUSAND ONE HUNDRED EIGHTY-EIGHT PESOS & 50/100 (P347,188.50) representing reimbursement of medical expenses.

All other claims are DISMISSED for lack of merit.

SO ORDERED.<sup>[3]</sup>

Private respondents appealed to the NLRC which reversed and set aside the findings of the Labor Arbiter. The NLRC ruled as follows:<sup>[4]</sup>

Records show that the evidence submitted by complainant in support of her claim for death benefits consist of medical results and medical certificates. Except for the chest x-ray conducted on May 5, 1998, the rest of the examinations conducted on complainant were done after he was repatriated on July 29, 2001. Further, the results of the examinations and the certificate issued merely speaks of medical finding of Awatin's lung problem. There were no showing that his lung cancer has reasonable connection with the nature of his work. It is to be noted that Awatin was employed by respondents as master of their vessel. And, according to complainant, as Master of the vessel the latest of which was the "Seabulk Treasure Island," her husband oversees the general control, operation and management of the vessel which was used for delivering the supplies needed by respondents' customers in the oil rigs which consist of high grade industrial pipes and drilling equipment. Complainant claims that the exposure of her husband to the toxic residues of oil and industrial equipment aggravated his lung cancer. Such claim of complainant deserves scant consideration. Besides being hearsay, not a single evidence was submitted by complainant to buttress such claim.

In fine, considering that the disease for which Awatin died is not work-related, complainant's claim for death benefits must fail.

WHEREFORE, premises considered, the Decision dated May 30, 2003 is hereby SET ASIDE and a new one entered dismissing the instant complaint for lack of merit.

SO ORDERED.

The motion for reconsideration was denied by the NLRC in its Resolution dated January 31, 2006.<sup>[5]</sup> Hence, petitioner filed a petition for *certiorari* under Rule 65 with the CA and in its decision<sup>[6]</sup> dated March 21, 2007, the CA dismissed the case and affirmed the decision of the NLRC. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the instant petition is DISMISSED. The assailed Decision of the NLRC dated October 28, 2005 and its Resolution dated January 31, 2006 in NLRC NCR CA No. 036686-03 are hereby AFFIRMED.

SO ORDERED.

The CA, in a Resolution<sup>[7]</sup> dated on August 3, 2007, denied petitioners' motion for reconsideration. Hence, the present petition.

Petitioners argue that Section 20 (A) 1 and (4) of the POEA SEC was primarily designed to be construed, together with Section 20(B) of the POEA SEC to compensate all claims for a seafarer or his beneficiary for the seafarer's injury, illness and death upon a seafarer's return from deployment in the Philippines pursuant to the local recruiter's use of deployment license in implementing the contract of employment itself pursuant to existing labor and social legislation for the employer to be socially responsible with the deployed worker's post-employment medical examination when the worker is returned from deployment to determine his claim for Workmen's Compensation benefits under the deployment itself as provided for by law and the POEA Rules and Regulations by itself and not as what the Court of Appeals claim in the assailed decision that said section compensates a seafarer's death only when the death is proven by the seafarer's beneficiaries with substantial evidence under the Rules of Court to be work-related and occurring during the term of the seafarer's term of the contract of employment.

Petitioners also claim that the provisions of Section 20(B) (4) and Section 32-A of the POEA SEC by themselves that disputably presume work-relation of a seafarer's illness even if the illness is not listed in the list of compensable illness and occupational diseases of Section 32 of the POEA SEC itself negates the legality of the Court of Appeals' conclusion to the case that the Section 20(A) (1) and (4) of the POEA SEC compensates only a seafarer's death if the death is the result of a work-related illness.

It is also asserted that because of the provisions of Section 20(B) (4) and Section 32-A of the POEA SEC that already disputably presumes all illnesses of a seafarer as work-related and/or work-aggravated if listed as an occupational disease that therefore makes it contrary to law for the Court of Appeals to dismiss the claims of petitioners in the instant case on the basis of a mistaken, absurd and imposable legal conclusion that misapplies Section 20 (A) (1) and (4) of the POEA SEC to compensate only a seafarer's death when the death occurs during the term of the contract of employment itself when the death is substantially proven by the beneficiaries to be work-related pursuant to the quantum of evidence required by the Rules of Court itself.

The petition is bereft of merit.

It is well settled in jurisprudence that factual findings of administrative or quasi-judicial bodies, which are deemed to have acquired expertise in matters within their respective jurisdictions, are generally accorded not only respect but even finality, and bind the Court when supported by substantial evidence.<sup>[8]</sup> Consistent therewith is the doctrine that this Court is not a trier of facts, and this is strictly adhered to in labor cases.<sup>[9]</sup> We may take cognizance of and resolve factual issues, only when the findings of fact and conclusions of law of the Labor Arbiter or the NLRC are inconsistent with those of the CA.<sup>[10]</sup>

The NLRC, as affirmed by the CA, found that the records are bereft of showing that Awatin's illness, *adenocarcinoma*, was contracted during the term of his last employment contract. It was noted that Awatin was declared fit to work when he was subjected to the mandatory pre-employment medical examination prior to his deployment on January 16, 2001. There was, likewise, no showing that he complained

of any illness while on board the vessel nor was it established that Awatin was repatriated due to an illness.

Thus, the CA did not err when it ruled that the provisions of the POEA Standard Employment Contract are explicit that for a seafarer's death to be compensable, the death must be shown to have occurred during the term of the employment contract. The determination of whether or not the death was the result of a work-related illness becomes necessary only when the above condition has been satisfied because of the rule that "the mere death of a seaman during the term of his employment is not sufficient to give rise to compensation."<sup>[11]</sup>

Section 20 (A) sub-paragraphs 1 and 4 of the Standard Terms and Conditions Governing the Employment of Filipino Seafarers On-Board Ocean-going Vessels on compensation and benefits in case of death of a seafarer provides:

"1. In case of work-related death of the seafarer during the term of his contract the employer shall pay his beneficiaries the Philippine Currency equivalent to the amount of Fifty Thousand US dollars (US\$50,000) and an additional Seven Thousand US dollars (US\$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of employment."

"4. The other liabilities of the employer when the seafarer dies as a result of work-related injury or illness during the term of employment are as follows:

a. The employer shall pay the deceased's beneficiary all outstanding obligations due the seafarer under this Contract.

b. The employer shall transport the remains and personal effects of the seafarer to the Philippines at employer's expense except if the death occurred in a port where local government laws or regulations do not permit the transport of such remains. In case death occurs at sea, the disposition of the remains shall be handled or dealt with in accordance with the master's best judgment. In all cases, the employer/master shall communicate with the manning agency to advise for disposition of seafarer's remains.

c. The employer shall pay the beneficiaries of the seafarer the Philippine currency equivalent to the amount of One Thousand US dollars (US\$1,000) for burial expenses at the exchange rate prevailing during the time of payment.

On the basis of the foregoing provisions, the death of a seaman to be compensable should occur during the term of his employment contract and must be the result of a work-related illness or injury. In the present case, it is not disputed that Awatin died on July 12, 2002, almost a year after the termination of his last employment contract on July, 2001. It must be remembered that Awatin was repatriated not because of any illness but because his contract of employment expired. There is no proof that he contracted his illness during the term of his employment nor that his working conditions increased the risk of contracting the illness which caused his death.

While the Court adheres to the principle of liberality in favor of the seafarer in construing the Standard Employment Contract, we cannot allow claims for compensation based on surmises. When the evidence presented negates compensability, we have no choice but to deny the claim, lest we cause injustice to the employer.<sup>[12]</sup>

The law in protecting the rights of the employees, authorizes neither oppression nor self-destruction of the employer - there may be cases where the circumstances warrant favoring labor over the interests of management but never should the scale be so tilted as to result in an injustice to the employer.<sup>[13]</sup>

**WHEREFORE**, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court of petitioners Ma. Susana A. Awatin, and on behalf of the heirs/beneficiaries of deceased Alberto Awatin, is hereby **DENIED**. Consequently, the Decision and Resolution of the Court of Appeals, dated March 21, 2007 and August 3, 2007, respectively, are hereby **AFFIRMED**.

**SO ORDERED.**

*Villarama, Jr., Perez,*<sup>\*\*</sup> *Mendoza,*<sup>\*\*\*</sup> and *Jardeleza, JJ.,* concur.

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July 8, 2015

### NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on **June 29, 2015** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 8, 2015 at 2:18 p.m.

Very truly yours,  
(SGD.)  
**WILFREDO V. LAPITAN**  
*Division Clerk of Court*

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\* Per Special Order No. 2071 dated June 23, 2015.

\*\* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

\*\*\* Designated Acting Member in lieu of Associate Justice Presbitero J. Velasco, Jr., per

Special OrderNo. 2072-A dated June 23, 2015.

[1] Penned by Associate Justice Estela M. Perlas-Bernabe (now a member of this Court), with Associate Justices Rodrigo V. Cosico and Lucas P. Bersamin (now a member of this Court), concurring.

[2] Penned by Labor Arbiter Fatima Jambaro-Franco, records, pp. 208-216.

[3] Records, p. 216.

[4] Penned by Presiding Commissioner Lourdes C. Javier and concurred by Commissioner Tito F. Genilo with Commissioner Romeo C. Lagman having no part; *id.* at 260-269.

[5] Records, pp. 277-278.

[6] *Id.* at 42-49.

[7] *Id.* at 52.

[8] *G & M (Phils.), Inc. v. Cruz*, 496 Phil. 119, 123-124 (2005).

[9] *PCL Shipping Philippines, Inc. v. NLRC*, 540 Phil. 65, 75 (2006).

[10] *Id.*

[11] *Mabuhay Shipping Services, Inc. v. NLRC, (1st Div.)*, 271 Phil. 142, 146 (1991).

[12] *Southeastern Shipping, et al. v. Navarra, Jr.*, 635 Phil. 350, 360 (2010).

[13] *Ledesma, Jr. v. National Labor Relations Commission*, 562 Phil. 939, 952 (2007).



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